

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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HOUSE BILL 474
Committee Substitute Favorable 4/26/19

Short Title: Death by Distribution/Unlawful Transaction.

(Public)

Sponsors:

Referred to:

March 28, 2019

A BILL TO BE ENTITLED
AN ACT TO CREATE THE OFFENSES OF DEATH BY DISTRIBUTION OF CERTAIN
CONTROLLED SUBSTANCES AND AGGRAVATED DEATH BY DISTRIBUTION OF
CERTAIN CONTROLLED SUBSTANCES.

Whereas, the General Assembly finds that the number of deaths resulting from opioid-related overdoses has drastically increased over the past 20 years; and

Whereas, the General Assembly finds that the number of deaths resulting from opioid-related overdoses is unlikely to be reduced so long as the drug continues to be made available through illegal distribution by drug dealers; and

Whereas, the General Assembly finds that the legal distribution of opioids should only be through a prescription issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his or her professional practice; and

Whereas, it is the intent of the General Assembly to strengthen the laws to act as a greater deterrent to persons who want to illegally distribute opioids and further exacerbate the opioid epidemic; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. Article 6 of Chapter 14 of the General Statutes is amended by adding a new section to read:

"§ 14-18.4. Death by distribution of certain controlled substances; aggravated death by distribution of certain controlled substances; penalties.

(a) Legislative Intent. – The General Assembly recognizes that deaths due to the opioid epidemic are devastating families and communities across North Carolina. The General Assembly finds that the opioid crisis is overwhelming medical providers engaged in the lawful distribution of controlled substances and is straining prevention and treatment efforts. Therefore, the General Assembly enacts this law to encourage effective intervention by the criminal justice system to hold illegal drug dealers accountable for criminal conduct that results in death.

(b) Definition. – For purposes of this section, the following terms apply:

(1) Certain controlled substance. – Any opium, opiate, or opioid; any synthetic or natural salt, compound, derivative, or preparation of opium, opiate, or opioid; cocaine or any other substance described in G.S. 90-90(1)(d); methamphetamine; a depressant described in G.S. 90-92(a)(1); or a mixture of one or more of these substances.

(2) Unlawful financial transaction. – Any agreement between two or more persons for the illicit transfer of one certain controlled substance in exchange for money, credit, or thing of value.



(c) Death by Distribution of Certain Controlled Substances. – A person is guilty of death by distribution of certain controlled substances if all of the following requirements are met:

- (1) The person unlawfully sells and delivers at least one certain controlled substance to the victim, or is part of the chain of unlawful financial transaction of the sale and delivery to the victim.
- (2) The ingestion of the certain controlled substance or substances causes the death of the user.
- (3) The person's conduct under subdivision (1) of this subsection was the proximate cause of the victim's death.
- (4) The person did not act with malice.

(d) Aggravated Death by Distribution of Certain Controlled Substances. – A person is guilty of aggravated death by distribution of certain controlled substances if all of the following requirements are met:

- (1) The person unlawfully sells and delivers at least one certain controlled substance to the victim, or is part of the chain of unlawful financial transaction of the sale and delivery to the victim.
- (2) The ingestion of the certain controlled substance or substances causes the death of the user.
- (3) The person's conduct under subdivision (1) of this subsection was the proximate cause of the victim's death.
- (4) The person did not act with malice.
- (5) The person has a previous conviction under this section, G.S. 90-95(a)(1), 90-95.1, 90-95.4, 90-95.6, or trafficking in violation of G.S. 90-95(h), or a prior conviction in any federal or state court in the United States that is substantially similar to an offense listed, within seven years of the date of the offense. In calculating the seven-year period under this subdivision, any period of time during which the person was incarcerated in a local, state, or federal detention center, jail, or prison shall be excluded.

(e) Lesser Included Offense. – Death by distribution of certain controlled substances constitutes a lesser included offense of aggravated death by distribution of certain controlled substances in violation of this section and of murder in violation of G.S. 14-17(b)(2).

(f) Samaritan Protection. – Nothing in this section shall be construed to restrict or interfere with the rights and immunities provided under G.S. 90-96.2.

(g) Exception. – This section shall not apply to any of the following:

- (1) A practitioner issuing a valid prescription for a controlled substance for a legitimate medical purpose in the usual course of professional practice.
- (2) A pharmacist dispensing and delivering a valid prescription for a controlled substance in the usual course of professional practice.

(h) Penalties. – Unless the conduct is covered under some other provision of law providing greater punishment, the following classifications apply to the offenses set forth in this section:

- (1) Death by distribution of certain controlled substances is a Class C felony.
- (2) Aggravated death by distribution of certain controlled substances is a Class B2 felony."

SECTION 2. This act becomes effective December 1, 2019, and applies to offenses committed on or after that date.